

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:05CR536
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
v.)	
)	GOVERNMENT'S MOTION FOR
RONALD DAVIS,)	<u>LEAVE OF COURT TO DISMISS</u>
)	
Defendant.)	

Now comes the United States of America, by and through its counsel, Gregory A. White, United States Attorney, and Ronald B. Bakeman, Assistant United States Attorney, and moves this Honorable Court pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure for leave to dismiss the charges against defendant Ronald Davis.

On November 9, 2005, Ronald Davis was indicted in a two-count indictment and charged with distribution of 50 grams or more of crack cocaine and distribution within 1,000 feet of school grounds all of which occurred on October 25, 2005. On February 7, 2007, Davis agreed to the filing of an Information

and proceeded to plead guilty to the Information. The Information charged Davis with the possession of crack cocaine and a weapon on November 9, 2005, the date that a state search warrant was executed at his residence. The probable cause for the search warrant were the events of October 25, 2005. Davis was sentenced on May 1, 2006, to 135 months in prison.

As the Court was made aware in previous filings, Jerrell Bray, the cooperating source who testified at the trial of the co-defendant, Geneva France, has now admitted to committing perjury at France's trial regarding the events of October 25, 2005¹, the same events which lead to the finding of probable cause for the search warrant executed at Davis' residence.² Consequently, the government is of the position that Davis would be entitled to a new trial pursuant to Title 28, United States Code, Section 2255. Based on the recantation of Bray regarding the events of October 25, 2005, the government, at this time, believes that there is now insufficient facts set forth in the affidavit to support probable cause for the search of Davis' residence.

¹ Jerrell Bray pled guilty on December 20, 2007, in case number 1:07CR 650 to five counts of violating persons civil rights and two counts of perjury, to include his testimony at the trial of Geneva France.

² The charges against Geneva France were subsequently dismissed by this Court on September 20, 2007.

For the aforementioned reasons, the government moves for leave of court for the filing of the dismissal in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December 2007, a copy of the foregoing Government's Motion for Leave of Court to Dismiss was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

s/Ronald B. Bakeman
Ronald B. Bakeman
Assistant U.S. Attorney